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10/581,341

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Jean-Pierre Klein

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EXAMINER

VESRA, DINESH K

ART UNIT

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3633

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------------|--|
| Office Action Summary | Application No. 10/581,341 | Applicant(s) KLEIN, JEAN-PIERRE | |
| | Examiner Dinesh Vesra | Art Unit 3633 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/2/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the uprights that are substantially vertical (claims 1 and 9) and the partition comprising two vertical side edges associated with a vertical side rail, a device for mounting the partition on a vertical wall having a slide and a vertical runner, and the slide and the vertical runner being mounted so they are able to move relative to each other in a horizontal direction (claim 14) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

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changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: Page 4, line 33 states "lower rail 2" however the lower rail is designated with the numeral 8; Page 6, line 1 states "lower rail 14" however the lower rail is designated with the numeral 8; and Page 6, line 1 states "floor 12" however the floor is designated with the numeral 2.

Appropriate correction is required.

Claim Objections

4. Claim 1 is objected to because of the following informalities: the period in the preamble at line 6 should be removed. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Regarding claim 10, the phrase "it being possible for" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1-3, 9-12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dixon (US Patent 4,103,463) in view of Karytinis (US Patent 4,918,899).** Dixon discloses a device (Figs. 1-2) for the earthquake-resistant mounting of a partition between a floor (14) and a ceiling (16), said partition having a framework comprising a lower rail (30) and an upper rail (26 at the top of Fig. 2) that are substantially horizontal and uprights (106) that are substantially vertical connecting the upper and lower rails, as well as a covering (22, 24) fixed to said framework, characterized in that comprises a slide (86) of profiled section, the slide being adapted to be joined to the upper rail (via 98) and having a substantially –shaped section, and a top runner (78) adapted to be fixed to the ceiling and partially housed in the slide between the arms (84) of its U-section, in that the slide and top runner are mounted such that they are able to move relative to each other in a vertical direction; characterized in that the top runner is in the form of a rail of profiled section comprising

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two side flanges (82) extending parallel to the arms (84) of the U-section of the slide and within those arms. Dixon does not disclose a reversible snap-fitting means provided between the slide and the top runner or that each of the side flanges of the top runner and each of the arms of the U-section of the slide comprises a boss projecting inwardly respectively from the flanges and from the arms, the bosses of the slide being adapted, when in resting position, to locate in the bosses of the top runner. Karytinis discloses a partition framework having a reversible snap-fitting means (22, 21) provided between a slide (20) and the top runner (11 - see Fig. 2) and the side flanges of the top runner and each arm of the U-section of the slide comprising a boss (21- Fig. 2) projecting inwardly respectively from the flanges and from the arms, the bosses of the slide being adapted, when in resting position, to locate in the bosses of the top runner.. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to provide the slide and top runner of Dixon with a reversible snap-fitting means in view of the teachings of Karytinis. The motivation for doing so would be to allow for quick and easy assembly and disassembly of the partition.

Regarding claims 9, 11, and 12 the combination of Dixon and Karytinis discloses a partition having a framework comprising a lower rail and an upper rail that are substantially horizontal and uprights that are substantially vertical connecting the upper and lower rails, as well as a covering fixed to said framework characterized in that the framework further comprises a device as set forth above; characterized in that the covering boards are mounted so as to be floating with respect to the lower rail (see Fig.

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2); and characterized in that a flexible mastic joint (52 – Column 3, line 65 – Column 4, line 2) is made between the floor and the covering fixed to the framework

Regarding claim 10 as best understood, the combination of Dixon and Karytinios disclose the partition as set forth above characterized in that the covering is fixed at its upper portion so as not to extend beyond the slide (see Fig. 2), thus leaving a free space between the covering and the ceiling, it being possible for said space to be filled by a joint of elastic material (it is possible for the free space shown in Fig. 2 of Dixon to be filled by a joint of elastic material).

Regarding claim 14, all of the claimed limitations of this claim are present in claim 9 addressed above, however the structure is simply rotated 90 degrees about a horizontal axis. It would be obvious to one of ordinary skill in the art to rotate the partition system of Dixon and Karytinios by 90 degrees about a horizontal axis. The motivation for doing so would be to use the mounting device to connect adjacent wall panels together.

9. **Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dixon and Karytinios as applied to claim 1 above, and further in view of Sykes (US Patent 4,905,428).** The combination of Dixon and Karytinios discloses the device as set forth above, but does not disclose characterized in that the slide comprises at each free end of the arms of its U-section a rim extending outwardly of the U, substantially perpendicular to the arms of the U. Sykes discloses a partition mounting device characterized in that the slide (23) comprises at each free end of the arms (26, 27) of its U-section a rim (28) extending outwardly of the U, substantially perpendicular to the

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arms of the U. It would have been obvious to one of ordinary skill in the art to provide the slide of the device of Dixon and Karytinis with rims in view of the teachings of Sykes. The motivation for doing so would be to allow for the slide to easily accept the covering boards and to decrease the assembly time for the partition.

10. **Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dixon, Karytinis, and Sykes as applied to claim 4 above, and further in view of Lewis et al. (US Patent 3,292,328).** The combination of Dixon, Karytinis, and Sykes discloses the device as set forth above, but does not disclose an elastic joint adapted to be located between a rim of the slide and the ceiling on which the top runner is fixed. Lewis et al. discloses a partition mounting device (Fig. 2) characterized in that it further comprises an elastic joint (56) adapted to be located between a rim (88) of the slide and the ceiling on which the top runner is fixed. At the time of the invention it would have been obvious to one of ordinary skill in the art to provide the device of Dixon, Karytinis, and Sykes with an elastic joint in view of the teachings of Lewis et al. The motivation for doing so would be to seal the space between the ceiling and the covering board, but still allow for adjustments in the vertical orientation of the partition.

11. **Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dixon and Karytinis as applied to claim 1 above, and further in view of Herren (US Patent 6,058,668).** The combination of Dixon and Karytinis discloses the device as set forth above characterized in that the top runner (78 - Dixon) is a member of profiled section comprising two side flanges (82) slidably mounted between the arms (84) of the U-section of the slide, but does not disclose a housing disposed between the side

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flanges on the opposite side from the slide, and adapted to receive a material having fire-retardant properties. Herren discloses a partition mounting device characterized in that the top runner has a housing (where 80 is located in Fig. 4), disposed between the side flanges (54) on the opposite side from the slide, and capable of receiving a material (80) having fire-retardant properties. At the time of the invention it would have been obvious to one of ordinary skill in the art to provide the device of Dixon and Karytinios with a housing in the top runner in view of the teachings of Herren. The motivation for doing so would be to allow for a space for a fire-retardant material to attempt to minimize the spreading of a fire.

12. Claims 7, 8, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dixon and Karytinios as applied to claims 1 and 9 above, and further in view of Russel et al. (US Patent 6,122,871). With regards to claims 7 and 8 Dixon and Karytinios disclose the device as set forth above, but do not disclose at least one anchorage reinforcing member disposed in the top runner having a U-section disposed transversely with respect to the slide and the top runner. Russel et al. disclose a partition mounting device having at least one anchorage reinforcing member (36 - Fig. 1) disposed in the top runner having a U-section (46, 37, 35 - Fig. 4) disposed transversely with respect to the slide and the top runner.

With regards to claim 13, Dixon and Karytinios disclose a partition as set forth above, but do not disclose at least one anchorage reinforcing member disposed transversely in the lower rail. Russel et al. disclose at least one anchorage reinforcing member (110 - Fig. 1) disposed transversely in the lower rail. At the time of the

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invention, it would have been obvious to one of ordinary skill in the art to provide the device and partition of Dixon and Karytinis with an anchorage reinforcing member in the upper and lower rails in view of the teachings of Russel et al. The motivation for doing so would be to strengthen the rails and increase their resistance to bending forces caused by earthquakes.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinesh Vesra whose telephone number is (571) 270-5221. The examiner can normally be reached on Monday - Thursday 9:00 a.m. - 7:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dinesh Vesra/
Examiner, Art Unit 3633

/Brian E. Glessner/
Supervisory Patent Examiner, Art Unit 3633